

With respect to new dependent claim 21, the applicants pointed out at page 13 of the Amendment filed November 20, 2006 that a water quenching cooling rate of 150°C/sec (9,000°C/min) is the lowest water quenching cooling rate disclosed in the Examples of the specification of the present application. The applicants referred to Inventive Examples 1 to 8 in Table 2 at page 14 of the specification.

This is the support pointed out by the applicants for the lower limit of a cooling rate of 9,000°C/min in dependent claim 21.

Dependent claim 21 depends from independent claim 17. The upper limit for the water quenching cooling rate in independent claim 17 is “or higher”. The cooling rate claimed in independent claim 17 is “6,000°C/min or higher”. Support for independent claim 17 is set forth at pages 12-13 of the Amendment filed November 20, 2006. Applicants pointed out that support for the water quenching cooling rate of 6,000°C/min or higher can be found in original dependent method claim 12 which claimed a water quenching cooling rate of “100°C/sec or higher”.

The upper limit of the water quenching cooling rate in dependent claim 21 is the same as the upper limit of the water quenching cooling of independent claim 17 from which dependent claim 21 depends. Support for the upper limit of the water quenching cooling rate “or higher” was set forth in the discussion of the support for independent claim 17.

Applicants therefore maintain that they have pointed out support for the upper limit of the water quenching cooling rate “or higher” in dependent claim 21. Dependent claim 21 depends on independent claim 17.

If the Examiner disagrees with the applicants' position that the water quenching cooling rate of dependent claim 21 is supported, the applicants respectfully request a rejection in an Office Action.

Objection

The applicants respectfully object to the Office Communication mailed February 26, 2006. Applicants set forth support for new dependent method claim 21 at page 13 of the Amendment. Applicants set forth support for new independent method claim 17 at pages 12-13 of the Amendment. Dependent claim 21 depends on independent claim 17.

The applicants have no statutory right to appeal to the Board of Patent Appeals and Interferences (the "Board") the position of no support for a claim limitation set forth in the Office Communication. The Office Communication procedurally denies the applicants the statutory right of an appeal to the Board.

If the Examiner is of the opinion that a claim limitation is not supported by the specification, applicants maintain that this position of the Examiner should be a statutory rejection in an Office Action so that the applicants have a statutory right of appeal to the Board.

The applicants therefore respectfully object to being procedurally denied their statutory right of appeal to the Board.



CONCLUSION

An action on the merits is respectfully requested.

Respectfully submitted,

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